

By Senator Montford

3-00903-19

2019384__

1 A bill to be entitled
2 An act relating to medical use of marijuana in
3 schools; amending s. 381.986, F.S.; conforming
4 provisions to changes made by the act; authorizing a
5 qualified patient to designate more than one caregiver
6 to assist with the qualified patient's medical use of
7 marijuana if the qualified patient is a student whose
8 parent has requested that a county-designated
9 caregiver assist the student with the medical use of
10 marijuana during the school day; authorizing a county-
11 designated caregiver to register as a caregiver for
12 more than one qualified patient if the patients are
13 students whose parents have requested that a county-
14 designated caregiver assist them with the medical use
15 of marijuana during the school day; conforming cross-
16 references; creating s. 381.9867, F.S.; defining
17 terms; providing a procedure for a parent of a student
18 who is a qualified patient to request that marijuana
19 be administered to the student during the school day;
20 requiring certain information to be included in the
21 written request to a school principal; specifying that
22 a registered caregiver of a student who is authorized
23 by that student's parent to administer marijuana to
24 the student during the school day is responsible for
25 obtaining, accounting for, and storing the marijuana
26 and any marijuana delivery devices; requiring a school
27 principal who receives a request authorizing a county-
28 designated caregiver to administer marijuana to the
29 student to notify the county health department for the

3-00903-19

2019384__

30 county in which the school is located; requiring a
31 county health department that has received such
32 notification to notify the Department of Health of the
33 request; requiring the department to designate no more
34 than two employees of the county health department to
35 serve as county-designated caregivers; requiring such
36 employees to obtain registration and to meet certain
37 criteria; requiring a county-designated caregiver to
38 follow any procedures adopted by department rule;
39 requiring the caregiver of the student to provide an
40 appropriate supply of marijuana, and any marijuana
41 delivery devices, needed to be administered during the
42 school day to a county-designated caregiver at a
43 county health department building; requiring the
44 county-designated caregiver to receive, document, and
45 account for the marijuana and any marijuana delivery
46 devices; requiring marijuana in its original container
47 and marijuana delivery devices to be stored under lock
48 and key when not in use or when being transported for
49 use; providing that a county-designated caregiver is
50 not liable for civil damages as a result of his or her
51 actions if certain criteria are met; requiring a
52 school principal who has received a request for
53 marijuana to be administered during the school day to
54 a student who is a qualified patient to designate an
55 isolated area on school grounds where marijuana may be
56 administered to the student; requiring that a
57 caregiver or a county-designated caregiver
58 administering marijuana to the student do so in the

3-00903-19

2019384__

59 area designated by the school principal; prohibiting
60 marijuana and marijuana delivery devices from being
61 stored on school grounds; prohibiting a school from
62 obstructing a student who is a qualified patient from
63 accessing marijuana during the school day; providing
64 that funding needed to administer this section shall
65 be provided from the Grants and Donations Trust Fund
66 within the Department of Health from certain fees
67 collected by the department; requiring the department
68 to adopt rules; amending s. 1006.062, F.S.; deleting a
69 requirement that each district school board adopt a
70 policy and a procedure for allowing a student who is a
71 qualified patient to access marijuana for medical use;
72 providing an effective date.

73

74 Be It Enacted by the Legislature of the State of Florida:

75

76 Section 1. Paragraph (j) of subsection (1), subsection (6),
77 paragraph (c) of subsection (12), and paragraphs (f) and (g) of
78 subsection (14) of section 381.986, Florida Statutes, are
79 amended to read:

80 381.986 Medical use of marijuana.—

81 (1) DEFINITIONS.—As used in this section, the term:

82 (j) "Medical use" means the acquisition, possession, use,
83 delivery, transfer, or administration of marijuana authorized by
84 a physician certification. The term does not include:

85 1. Possession, use, or administration of marijuana that was
86 not purchased or acquired from a medical marijuana treatment
87 center.

3-00903-19

2019384__

88 2. Possession, use, or administration of marijuana in a
89 form for smoking, in the form of commercially produced food
90 items other than edibles, or of marijuana seeds or flower,
91 except for flower in a sealed, tamper-proof receptacle for
92 vaping.

93 3. Use or administration of any form or amount of marijuana
94 in a manner that is inconsistent with the qualified physician's
95 directions or physician certification.

96 4. Transfer of marijuana to a person other than the
97 qualified patient for whom it was authorized or the qualified
98 patient's caregiver on behalf of the qualified patient.

99 5. Use or administration of marijuana in the following
100 locations:

101 a. On any form of public transportation, except for low-THC
102 cannabis.

103 b. In any public place, except for low-THC cannabis.

104 c. In a qualified patient's place of employment, except
105 when permitted by his or her employer.

106 d. In a state correctional institution, as defined in s.
107 944.02, or a correctional institution, as defined in s. 944.241.

108 e. On the grounds of a preschool, primary school, or
109 secondary school, except as provided in s. 381.9867 ~~s. 1006.062~~.

110 f. In a school bus, a vehicle, an aircraft, or a motorboat,
111 except for low-THC cannabis.

112 (6) CAREGIVERS.—

113 (a) The department must register an individual as a
114 caregiver on the medical marijuana use registry and issue a
115 caregiver identification card if an individual designated by a
116 qualified patient meets all of the requirements of this

3-00903-19

2019384__

117 subsection and department rule.

118 (b) A caregiver must:

119 1. Not be a qualified physician and not be employed by or
120 have an economic interest in a medical marijuana treatment
121 center or a marijuana testing laboratory.

122 2. Be 21 years of age or older and a resident of this
123 state.

124 3. Agree in writing to assist with the qualified patient's
125 medical use of marijuana.

126 4. Be registered in the medical marijuana use registry as a
127 caregiver for no more than one qualified patient, except as
128 provided in this paragraph.

129 5. Successfully complete a caregiver certification course
130 developed and administered by the department or its designee,
131 which must be renewed biennially. The price of the course may
132 not exceed \$100.

133 6. Pass a background screening pursuant to subsection (9),
134 unless the patient is a close relative of the caregiver.

135 (c) A qualified patient may not designate ~~no~~ more than one
136 caregiver to assist with the qualified patient's medical use of
137 marijuana, unless:

138 1. The qualified patient is a minor and the designated
139 caregivers are parents or legal guardians of the qualified
140 patient;

141 2. The qualified patient is an adult who has an
142 intellectual or developmental disability that prevents the
143 patient from being able to protect or care for himself or
144 herself without assistance or supervision and the designated
145 caregivers are the parents or legal guardians of the qualified

3-00903-19

2019384__

146 patient; ~~or~~

147 3. The qualified patient is admitted to a hospice program;
148 or

149 4. The qualified patient is a student whose parent has
150 requested that a county-designated caregiver assist the student
151 with the medical use of marijuana during the school day pursuant
152 to s. 381.9867.

153 (d) A caregiver may not be registered in the medical
154 marijuana use registry as a designated caregiver for ~~no~~ more
155 than one qualified patient, unless:

156 1. The caregiver is a parent or legal guardian of more than
157 one minor who is a qualified patient;

158 2. The caregiver is a parent or legal guardian of more than
159 one adult who is a qualified patient and who has an intellectual
160 or developmental disability that prevents the patient from being
161 able to protect or care for himself or herself without
162 assistance or supervision; ~~or~~

163 3. All qualified patients whom the caregiver has agreed to
164 assist are admitted to a hospice program and have requested the
165 assistance of that caregiver with the medical use of marijuana;
166 the caregiver is an employee of the hospice; and the caregiver
167 provides personal care or other services directly to clients of
168 the hospice in the scope of that employment; or

169 4. All qualified patients whom the caregiver has agreed to
170 assist are students whose parents have requested the assistance
171 of a county-designated caregiver to assist them with the medical
172 use of marijuana during the school day pursuant to s. 381.9867,
173 and the caregiver is a county-designated caregiver.

174 (e) A caregiver may not receive compensation, other than

3-00903-19

2019384__

175 actual expenses incurred, for any services provided to the
176 qualified patient.

177 (f) If a qualified patient is younger than 18 years of age,
178 only a caregiver may purchase or administer marijuana for
179 medical use by the qualified patient. The qualified patient may
180 not purchase marijuana.

181 (g) A caregiver must be in immediate possession of his or
182 her medical marijuana use registry identification card at all
183 times when in possession of marijuana or a marijuana delivery
184 device and must present his or her medical marijuana use
185 registry identification card upon the request of a law
186 enforcement officer.

187 (h) The department may adopt rules pursuant to ss.
188 120.536(1) and 120.54 to implement this subsection.

189 (12) PENALTIES.—

190 (c) A qualified patient who uses marijuana, not including
191 low-THC cannabis, or a caregiver who administers marijuana, not
192 including low-THC cannabis, in plain view of or in a place open
193 to the general public; in a school bus, a vehicle, an aircraft,
194 or a boat; or on the grounds of a school, except as provided in
195 s. 381.9867 ~~s. 1006.062~~, commits a misdemeanor of the first
196 degree, punishable as provided in s. 775.082 or s. 775.083.

197 (14) EXCEPTIONS TO OTHER LAWS.—

198 ~~(f) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or~~
199 ~~any other provision of law, but subject to the requirements of~~
200 ~~this section and pursuant to policies and procedures established~~
201 ~~pursuant to s. 1006.62(8), school personnel may possess~~
202 ~~marijuana that is obtained for medical use pursuant to this~~
203 ~~section by a student who is a qualified patient.~~

3-00903-19

2019384__

204 (f)~~(g)~~ Notwithstanding s. 893.13, s. 893.135, s. 893.147,
205 or any other provision of law, but subject to the requirements
206 of this section, a research institute established by a public
207 postsecondary educational institution, such as the H. Lee
208 Moffitt Cancer Center and Research Institute, Inc., established
209 under s. 1004.43, or a state university that has achieved the
210 preeminent state research university designation under s.
211 1001.7065 may possess, test, transport, and lawfully dispose of
212 marijuana for research purposes as provided by this section.

213 Section 2. Section 381.9867, Florida Statutes, is created
214 to read:

215 381.9867 Medical use of marijuana in schools.—

216 (1) As used in this section, the term:

217 (a) "Caregiver" has the same meaning as in s. 381.986(1).

218 (b) "County-designated caregiver" means an employee of a
219 county health department designated by the department pursuant
220 to subsection (4) who has an identification card and is
221 registered as a caregiver pursuant to s. 381.986(6).

222 (c) "Marijuana," "marijuana delivery device," "medical
223 use," "physician certification," and "qualified patient" have
224 the same meanings as in s. 381.986(1).

225 (2) A parent of a student who is a qualified patient may
226 request that marijuana obtained pursuant to s. 381.986 be
227 administered to the student during the school day. A request
228 must be made in writing to the school principal and must include
229 all of the following information:

230 (a) A copy of the student's current patient identification
231 card as described in s. 381.986(7) (a).

232 (b) A copy of the student's current physician certification

3-00903-19

2019384__

233 as described in s. 381.986(4).

234 (c) A statement that explains the necessity for
235 administration of the marijuana during the school day, including
236 any occasion when the student is away from school property on
237 official school business.

238 (d) A statement authorizing a registered caregiver of the
239 student or a county-designated caregiver to administer marijuana
240 to the student. If the parent is the registered caregiver of the
241 student, the parent may include a statement of his or her desire
242 to administer marijuana to the student.

243 (3) If the parent authorizes the registered caregiver of
244 the student to administer marijuana to the student during the
245 school day, the caregiver is responsible for obtaining,
246 accounting for, and storing the marijuana and any marijuana
247 delivery devices as provided in this section and s. 381.986.

248 (4) (a) Upon receiving a request that includes a statement
249 authorizing a county-designated caregiver to administer
250 marijuana to a student, a school principal shall promptly notify
251 the county health department for the county in which the school
252 is located. Upon receipt of the notification, the county health
253 department shall notify the department of the request, and the
254 department shall designate no more than two employees of the
255 county health department to serve as county-designated
256 caregivers. A county-designated caregiver shall follow any
257 procedures adopted by department rule under subsection (8).

258 (b) The caregiver of the student shall provide to a county-
259 designated caregiver at a county health department building an
260 appropriate supply of marijuana and any marijuana delivery
261 devices necessary for administration of the marijuana during the

3-00903-19

2019384__

262 school day, all of which must be obtained pursuant to s.
263 381.986. The county-designated caregiver shall document and
264 account for the marijuana and any marijuana delivery devices
265 received. The county-designated caregiver is responsible for the
266 transportation of the marijuana and marijuana delivery devices
267 used in the administration of marijuana to the student to and
268 from the county health department building and the school. When
269 the marijuana or marijuana delivery devices are not in use or
270 being transported for use, the marijuana must be placed in its
271 original container and it and any marijuana delivery devices
272 must be stored in a secure fashion under lock and key.

273 (c) A county-designated caregiver is not liable for civil
274 damages arising out of his or her actions taken in connection
275 with assisting students who are qualified patients with the
276 medical use of marijuana, if the county-designated caregiver
277 acts as a reasonably prudent person would have acted under the
278 same or similar circumstances.

279 (5) A school principal who receives a request under
280 subsection (2) must designate an isolated area on school grounds
281 where marijuana may be administered to the student. A caregiver
282 or county-designated caregiver may administer marijuana to the
283 student on school grounds only in the designated area. Marijuana
284 and marijuana delivery devices may not be stored on school
285 grounds.

286 (6) A school may not obstruct a student who is a qualified
287 patient from accessing marijuana during the school day in
288 accordance with this section.

289 (7) Funding to administer this section must be provided
290 through the Grants and Donations Trust Fund within the

3-00903-19

2019384__

291 Department of Health from fees collected by the department under
292 s. 381.986.

293 (8) The department shall adopt rules necessary to
294 administer this section.

295 Section 3. Subsection (8) of section 1006.062, Florida
296 Statutes, is amended to read:

297 1006.062 Administration of medication and provision of
298 medical services by district school board personnel.-

299 ~~(8) Each district school board shall adopt a policy and a~~
300 ~~procedure for allowing a student who is a qualified patient, as~~
301 ~~defined in s. 381.986, to use marijuana obtained pursuant to~~
302 ~~that section. Such policy and procedure shall ensure access by~~
303 ~~the qualified patient; identify how the marijuana will be~~
304 ~~received, accounted for, and stored; and establish processes to~~
305 ~~prevent access by other students and school personnel whose~~
306 ~~access would be unnecessary for the implementation of the~~
307 ~~policy.~~

308 Section 4. This act shall take effect July 1, 2019.